

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

KEVIN MULLINS, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

THE KROGER COMPANY; and SMITH'S
FOOD & DRUG CENTERS, INC. d/b/a FRY'S
FOOD AND DRUG,

Defendants.

Case No. 1:19-cv-00964-MRB

JUDGE MICHAEL R. BARRETT

JACOB WILSON, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

THE KROGER COMPANY; and ROUNDY'S
SUPERMARKETS, INC. d/b/a PICK 'N SAVE,

Defendants.

Case No. 1:20-cv-00936-MRB

CHRISTOPHER LEVI, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE KROGER COMPANY; and FRED
MEYER STORES, INC. d/b/a FRED MEYER,

Defendants.

Case No. 1:21-cv-00042-MRB

THOMAS SCHELL and CHRISTOPHER
RILEY, on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

THE KROGER COMPANY d/b/a KROGER,

Defendant.

Case No. 1:21-cv-00103-MRB

WILLIAM POWELL, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE KROGER COMPANY; and DILLON
COMPANIES, LLC a/k/a KING SOOPERS,
INC. d/b/a KING SOOPERS/CITY MARKET,

Defendants.

Case No. 1:21-cv-00345-MRB

ISIAH LOVENDAHL, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE KROGER COMPANY; and SMITH'S
FOOD & DRUG CENTERS, INC. d/b/a
SMITH'S FOOD AND DRUG,

Defendants.

Case No. 1:21-cv-00350-MRB

JOINT MOTION TO FILE REDACTED SETTLEMENT AGREEMENT

The Plaintiffs and Defendants in the above-reference actions (collectively, the “Parties”) respectfully request that the Court permit the Parties to file their Omnibus Collective Action Settlement Agreement (“Settlement” or “Agreement”) and Joint Motion to Approve Collective Action Settlement (“Motion to Approve”) with minimal redactions to ensure the confidentiality of the settlement payments and of personal wage information of members of the collectives, in keeping with the Parties’ agreement regarding these issues during settlement negotiations. Specifically, the Parties request leave to file the Agreement (and any related attachments) and the Motion to Approve with only the settlement amounts, confidential information regarding the collective members’ wages, and the amounts set forth in Plaintiffs’ Counsel’s Declaration regarding fees and expenses, redacted. The remainder of the Agreement will not be redacted. Nothing would be filed under seal. Moreover, the Parties agree to submit to chambers, via email, a fully unredacted version of the settlement materials for the Court’s review.

As more fully outlined in the settlement materials, Plaintiffs and Defendants reached a universal settlement of the above-referenced matters after several years of hard-fought litigation. A key issue discussed during settlement negotiations was the Parties’ intention that the monetary settlement amounts and information regarding the collective members’ wages be kept confidential. To this end, the Parties have agreed and now seek to file the Agreement and Motion to Approve with only these minor reductions. District Courts in the Sixth Circuit—including another division of this Court—have granted such requests (and even requests to file materials under seal, in some cases) based on balancing the need for court approval of the settlement and the relatively minor redactions needed to carry out the intent of the parties and promote the continued settlement of class/collective action disputes. *See, e.g., Hardesty, et al. v. Kroger Co.*, 1:16-cv-00298-MWM

(June 30, 2022 Notation Order) (“For good cause, the Court GRANTS the Joint Motion to File Redacted Settlement Agreement (Doc. 112). Within fourteen (14) days of this Order, the parties shall file the Collective Action Settlement Agreement and Joint Motion to Approve Collective Action Settlement with minimal redactions to confidential settlement payments, personal wage information, and declarations regarding fees and expenses. The parties shall also submit, within fourteen (14) days of this Order, the unredacted settlement materials to chambers.”). *See also, Day v. Razban Ents.*, W.D. Tenn. No. 1:19-cv-01170-STA-jay, 2019 U.S. Dist. LEXIS 219084 (Dec. 20, 2019) (granting joint motion for approval and allowing the parties to file redacted settlement agreement); *Scobey v. GM, Ltd. Liab. Co.*, E.D. Mich. No. 20-12098, 2021 U.S. Dist. LEXIS 207917, at *16 (Oct. 28, 2021) (same); *Snide v. Discount Drug Mart, Inc.*, N.D. Ohio No. 1:11CV244, 2013 U.S. Dist. LEXIS 40078 (Feb. 27, 2013) (granting joint motion, filed under seal, for the approval of the collective action settlement); *White v. Premier Pallet & Recycling, Inc.*, N.D. Ohio No. 5:18-cv-1460, 2018 U.S. Dist. LEXIS 174414, at *8-9 (Oct. 10, 2018) (approving collective action settlement agreement after in camera review and directing settlement agreement be filed under seal); *Hane v. On Time Securing, Inc.*, N.D. Ohio No. 5:16-cv-2002, 2018 U.S. Dist. LEXIS 146305, at *5 (Aug. 28, 2018) (same). Here, unlike many of the above cases, nothing would be filed under seal. Moreover, the Parties have agreed to submit to chambers, via email, a fully unredacted version of the settlement materials.

For the reasons above, the Parties respectfully request that the Court grant this motion, permit the Parties to file the Agreement and Motion to Approve with the monetary settlement amounts and confidential information regarding the collective members’ wages redacted, and allow the Parties to submit the unredacted settlement materials to chambers.

Respectfully submitted,

/s/ Jason Conway (w/ permission)

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon opposing counsel via the Court's electronic docketing system this 26th day of January, 2024.

/s/ Ryan M. Martin
Ryan M. Martin

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